

ENTERED

April 24, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JASON COLBY CALLICOTTE,
SPN # 01401470,

Plaintiff,

VS.

BRIAN HAWTHORNE, *et al*,

Defendants.

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CIVIL ACTION NO. 3:18-CV-331

ORDER

Plaintiff has filed a document headed “Plaintiff’s Appeal/Objection to Court Order Entered on 04-08-2019” (Dkt. 17). Plaintiff states that he “appeals and/or objects (whichever is appropriate)” regarding the Court’s prior rulings requiring him to submit his amended complaint on the Court’s form and denying his request for appointed counsel.¹ Because this Court has not entered final judgment and has not certified any issue under 28 U.S.C. § 1292, no interlocutory appeal is available. *See Aaron v. Nat’l Union Fire Ins. Co. of Pittsburgh, Pa.*, 876 F.2d 1157, 1160 (5th Cir. 1989). Additionally, the Court notes that Plaintiff’s filings evince an intent to proceed in this Court, given his statement that he seeks to appeal “and/or” object and his multiple recent filings seeking additional relief from this Court (Dkt. 12, Dkt. 13, Dkt. 14, Dkt. 15). The

¹ The Court’s order of April 8, 2019 (1) denied Plaintiff’s motion to remand; (2) granted Plaintiff’s request for leave to amend his pleadings and instructed Plaintiff to submit an amended complaint on the Court’s form within thirty days; and (3) denied Plaintiff’s motion to appoint counsel (Dkt. 11).

Court therefore construes Plaintiff's filing as a motion for reconsideration under Federal Rule of Civil Procedure 54(b).

Regarding the instruction to use the Court's form complaint, Plaintiff's motion for reconsideration is **DENIED**. Plaintiff is advised that using the Court's form will not initiate a new lawsuit, but rather will serve as an amended pleading in the pending suit. After the amended complaint is filed, it will supersede all previous pleadings in the case. Plaintiff must submit his amended complaint on the Court's form, which previously was provided to him, within thirty (30) days of the date of this Order. Failure to comply with this deadline may result in dismissal of this lawsuit without further warning. Further amendments to Plaintiff's pleadings will not be permitted unless justice so requires. FED. R. CIV. P. 15(a)(2).

Regarding the Court's order denying Plaintiff's motion for appointment of counsel, Plaintiff's motion for reconsideration also is **DENIED**. For the reasons stated in the Court's previous order, appointment of counsel is not warranted at this time. At later stages of the case, the Court will reconsider the issue on its own motion as necessary.

In addition, Plaintiff's amended complaint (Dkt. 16) filed on April 22, 2019 is **STRICKEN** from the record because it does not comply with the Court's instructions to submit an amended pleading on the Court's form.

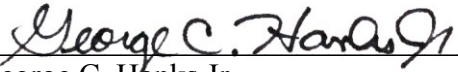
Finally, Plaintiff's motion for summary judgment (Dkt. 15) is **DENIED without prejudice**. This motion is premature because Plaintiff has not yet amended his pleadings. Plaintiff may file a new summary judgment motion, if warranted, at a later stage of the case.

Therefore the Court **ORDERS** as follows:

1. Plaintiff's motion for reconsideration (Dkt. 17) is **DENIED**.
2. Plaintiff must submit an amended complaint on the Court's form within thirty (30) days of the date of this Order.
3. Plaintiff's amended complaint (Dkt. 16) is **STRICKEN** from the record.
4. Plaintiff's motion for summary judgment (Dkt. 15) is **DENIED** without prejudice.

The Clerk is instructed to provide a copy of this order to the parties.

SIGNED at Galveston, Texas, this 24th day of April, 2019.



George C. Hanks Jr.
United States District Judge